

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION,

THIS DOCUMENT RELATES TO ALL  
ACTIONS

MDL NO. 1456

Civil Action: 01-CV-12257-PBS

Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

**DECLARATION OF CHRISTOPHER C. PALERMO**

**CHRISTOPHER C. PALERMO**, declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel for defendant Dey, Inc. (“Dey”). I am admitted to practice *pro hac vice* in this judicial district for the purposes of this action.

2. I make this declaration in support of Dey, Inc.’s and Abbott Laboratories’ Objections to the Order of Chief Magistrate Judge Bowler Issued on February 4, 2006 Pursuant to Fed. R. Civ. P. Rule 72(a) (the “Objections”). More specifically, I make this declaration to submit certain documents in support of the Objections.

3. I make this declaration from my own knowledge of the facts and circumstances set forth herein. The source of my knowledge is my review of Kelley Drye & Warren LLP’s file on this litigation and my review of the documents and correspondence annexed as exhibits hereto.

4. Annexed hereto as Exhibit A is a true and correct copy of a Subpoena in a Civil Case, dated November 9, 2005, issued to Tufts Associated Health Plans, Inc.

5. Annexed hereto as Exhibit B is a true and correct copy of a Subpoena in a Civil Case, dated November 9, 2005, issued to Neighborhood Health Plan, Inc.

6. Annexed hereto as Exhibit C is a true and correct copy of a Subpoena in a Civil Case, dated November 21, 2005, issued to Fallon Community Health Plan, Inc.

7. Annexed hereto as Exhibit D is a true and correct copy of a Subpoena in a Civil Case, dated November 22, 2005, issued to Harvard Pilgrim Healthcare.

8. Annexed hereto as Exhibit E is a true and correct copy of an order, dated April 26, 2004, denying Plaintiffs' prior motion for a protective order as to absent class member discovery.

9. Annexed hereto as Exhibit F is a true and correct copy of an order, dated November 2, 2004, compelling Aetna, Cigna and Humana to produce discovery in this action.

10. Annexed hereto as Exhibit G is a true and correct copy of a transcript of a hearing before Chief Magistrate Judge Marianne B. Bowler, on January 27, 2005, reflecting an order compelling Health Net to produce discovery in this action.

11. Annexed hereto as Exhibit H is a true and correct copy of a transcript of a hearing before Chief Magistrate Judge Marianne B. Bowler, on November 9, 2005, reflecting an order denying a motion for a protective order by six Blue Cross Blue Shield plans.

I declare under penalty of perjury that the foregoing is true and correct. Executed on February 16, 2006.

  
**CHRISTOPHER C. PALERMO**

**CERTIFICATE OF SERVICE**

I certify that on February 16, 2005, a true and correct copy of the foregoing Declaration of Christopher C. Palermo, with annexed exhibits, was served on all counsel of record by electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties. I further certify that on February 16, 2005, a copy was served on counsel for non- parties Tufts Associated Health Plans, Inc, Neighborhood Health Plan, Inc., Fallon Community Health Plan, Inc., and Harvard Pilgrim Healthcare via UPS Overnight Courier.

  
Philip D. Robben